

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order No. O-11-053

FINAL AGENCY ORDER

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF PIONEER
GENERAL INSURANCE COMPANY,

Respondent.

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of PIONEER GENERAL INSURANCE COMPANY (the "Respondent"), pursuant to §§ 10-1-204, 10-3-1106, 12-7-108(6), and 12-7-113, C.R.S.

The Commissioner has considered and reviewed the market conduct examination report dated June 15, 2010 (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff.

The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a property and casualty insurer.
2. In accordance with §§ 10-1-204, 10-3-1106, 12-7-108(6), and 12-7-113, C.R.S., on June 15, 2010, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2008, through December 31, 2008.
3. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.
4. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the

Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.

5. Respondent delivered to the Division written submissions and rebuttals to the Report.
6. The Commissioner has fully considered and reviewed the Report and all of Respondent's submissions and rebuttals to said report, including but not limited to the Respondent's September 14, 2010 response to the draft market conduct examination report.

CONCLUSIONS OF LAW AND ORDER

7. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
8. Issue A1 concerns the following: Failure, in some instances, to maintain records required for market conduct purposes. This failure constitutes a violation of Colorado Insurance Regulation 1-1-7, Section 4. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that all records required for market conduct purposes are maintained in compliance with Colorado insurance law.
9. Issue D1 concerns the following: Failure, in some instances, to send notification letters advising of agent terminations to the Commissioner and to the agents. This failure constitutes violations of §§ 10-2-415.7(1), and 10-2-416.5, C.R.S., and Colorado Insurance Regulation 1-2-16. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that notice of termination of an agent is sent by certified mail to both the Division and to the agent.
10. Issue D2 concerns the following: Failure, in some instances, to register with the Commissioner the use of any assumed, trade, or fictitious name prior to using the name. (*This was prior issue "F" in the findings of the 2002 final examination report.*) This failure constitutes violations of § 10-2-701, C.R.S., and Colorado Insurance Regulation 1-2-10. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that agents register with the Commissioner the use of any assumed name as required by Colorado insurance law. In the market conduct examination for the period January 1, to December 31, 2002, the Company was cited for failure of some agents to register assumed (trade) name. The violation resulted in Recommendation #14 of Final Agency Order O-04-082, that the "Respondent

shall review, revise and implement procedures to ensure that agents register assumed (trade) names in compliance with Colorado insurance law.” Failure to comply with the previous order of the commissioner constitutes a violation of §10-1-205, C.R.S. The Division’s records indicate that the Respondent has provided a corrective action plan that requires all agents using an assumed name or trade name to evidence the right to use that name and to provide proof that they have filed said trade name with the Division. If implemented uniformly by the Respondent, this corrective action plan appears to comply with the corrective actions ordered concerning this violation. This statement is only applicable to the procedure regarding registration of assumed or trade names by the Company’s agents, and should not be construed as approval beyond this proposed procedure.

11. Issue D3 concerns the following: Failure of the Company’s agents, in some instances, to fulfill fiduciary responsibilities by commingling funds. (*This was prior issue “E” in the findings of the 2002 final examination report.*) This failure constitutes violations of §§ 10-2-704 and 12-7-106, C.R.S., as well as Colorado Insurance Regulation 1-2-1. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that agents segregate premium monies and cash/credit card payment collateral from their business or premium account as required by Colorado insurance law. In the market conduct examination for the period January 1, to December 31, 2002, the Company was cited for failure, in some cases, of agents to fulfill fiduciary responsibilities by commingling funds. The violation resulted in Recommendation #13 of Final Agency Order O-04-082, that the “Respondent shall review, revise and implement procedures relating to the handling of fiduciary funds received by agents to ensure compliance with Colorado insurance law.” Failure to comply with the previous order of the commissioner constitutes a violation of §10-1-205, C.R.S. The Division’s records indicate that the Respondent has provided a corrective action plan that requires all agents segregate premium monies and cash collateral from their business or personal account. If implemented uniformly by the Respondent, this corrective action plan appears to comply with the corrective actions ordered concerning this violation. This statement is only applicable to the procedure regarding segregation of premium monies and cash/credit card payment collateral from the agent’s business or premium account, and should not be construed as approval beyond this proposed procedure.
12. Issue E1 concerns the following: Failure to reflect complete or accurate information regarding the terms under which money or other consideration shall be released on collateral receipt forms. This failure constitutes violations of §§ 12-7-108(4), and 12-7-109(1), C.R.S., and Colorado Insurance Regulation 1-2-14. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its collateral receipt forms reflect correct and complete information regarding the terms under which money or other

consideration provided as collateral will be released.

13. Issue E2 concerns the following: Failure to reflect a signature line for the bail agent on the promissory note form. This failure constitutes a violation of § 12-7-108(1), C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its promissory notes reflect a signature line and are signed by the bail agent as required by Colorado insurance law. The Division's records indicate that the Respondent has provided a revised promissory note that contains a signature line labeled for use by the agent. If implemented uniformly by the Respondent's agents, this portion of the promissory note appears to comply with the corrective actions ordered concerning this violation. The statement is only applicable to the agent signature line and nothing in this paragraph should be construed as approval of the promissory note as a whole.
14. Issue E3 concerns the following: Failure to reflect a signature line and date line for the bail agent to be able to sign and date the premium receipt. This failure constitutes a violation of § 12-7-108(1) and (8), C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its premium receipts reflect both a signature and date line to enable the bail agent to sign and date the receipt as required by Colorado insurance law.
15. Issue F1 concerns the following: Failure to establish underwriting criteria to support the premium charged and to apply such criteria uniformly across all underwritten risk. This failure constitutes a violation of §§ 10-3-1104 and 10-4-403, C.R.S., and Colorado Insurance Regulation 1-2-15. The Respondent shall provide evidence to the Division that it has established underwriting criteria sufficient to ensure that similarly situated individuals and risks are treated uniformly in the rates that they are charged and has implemented procedures to ensure that its bail bond agents charge the appropriate, filed premium based on the Company's established underwriting criteria. The Division's records indicate that the Respondent has provided a corrective action plan to establish underwriting criteria to support the premium charged and to apply such criteria uniformly across all underwritten risk. If implemented uniformly by the Respondent and its agents, this corrective action plan appears to comply with the corrective actions ordered concerning this violation. This statement is only applicable to the procedure regarding establishing underwriting criteria to support the premium charged and to applying such criteria uniformly across all underwritten risk, and should not be construed as approval beyond this proposed procedure.
16. Issue G1 concerns the following: Failure of agents, in some instances, to timely remit premiums to the insurer. This failure constitutes a violation of § 10-2-704, C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that all premiums received by producers, less

commissions if authorized, are remitted to the insurer or its agent thereto on or before the contractual due date or within forty-five (45) days if there is no contractual due date.

17. Issue G2 concerns the following: Failure to prepare and provide to the insurer within twenty (20) days, a list of all collateral taken for assurance of compliance with the bond issued and the fee paid therefor. This failure constitutes a violation of § 12-7-107, C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its agents provide a list to the insurer of all collateral taken for assurance of compliance with the bond issued.
18. Issue G3 concerns the following: Failure, in some instances, to include all required information on the executed/indemnity agreements. This failure constitutes a violation of § 12-7-108, C.R.S., and Colorado Insurance Regulation 1-2-14. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that all executed/indemnity agreements include all information required by Colorado insurance law.
19. Issue G4 concerns the following: Failure, in some instances, to use the required Appendix A format for the daily bond register. This failure constitutes a violation of § 12-7-108, C.R.S., and Colorado Insurance Regulation 1-2-14. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its agents use the form prescribed in "Appendix A" of Colorado Insurance Regulation 1-2-14 for their daily bond register.
20. Issue G5 concerns the following: Failure, in some instances, to have the promissory note signed by the bail agent. This failure constitutes a violation of § 12-7-108, C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its agents, as well as the defendant or third-party indemnitor, sign the promissory notes. The Division's records indicate that the Respondent has provided a corrective action plan to include a revised promissory note form that includes a signature line for the bail agent. If implemented uniformly by the Respondent and its agents, this corrective action plan appears to comply with the corrective actions ordered concerning this violation. This statement is only applicable to the procedure regarding ensuring that the bail agents as well as the defendant or third-party indemnitor sign the promissory note, and should not be construed as approval beyond this proposed procedure.
21. Issue G6 concerns the following: Failure, in some instances, to include all required information on the premium receipts. This failure constitutes a violation of § 12-7-108, C.R.S., and Colorado Insurance Regulation 1-2-14. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its agents include all required information on all

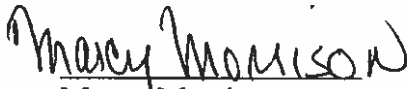
premium receipts. The Division's records indicate that the Respondent has provided a corrective action plan to include all required information on the premium receipts. If implemented uniformly by the Respondent and its agents, this corrective action plan appears to comply with the corrective actions ordered concerning this violation. This statement is only applicable to the procedure regarding the requirement to include all required information on the premium receipts, and should not be construed as approval beyond this proposed procedure.

22. Issue G7 concerns the following: Failure, in some instances, to enter the premium receipt number on the daily bond register. This failure constitutes a violation of § 12-7-108, C.R.S., and Colorado Insurance Regulation 1-2-14. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its agents insert the premium receipt number on their daily bond register for each bond written.
23. Issue G8 concerns the following: Failure, in some instances, to include all required information on the disclosure statement. This failure constitutes a violation of § 12-7-108, C.R.S., and Colorado Insurance Regulation 1-2-14. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its agents include all required information on the disclosure statements as required by Colorado insurance law.
24. Issue G9 concerns the following: Use of a single form, in some instances, for multiple powers of attorney on disclosure statements and premium receipts. This failure constitutes a violation of § 12-7-108, C.R.S., and Colorado Insurance Regulation 1-2-14. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its agents do not combine powers of attorney/bonds on any Disclosure Statements or Indemnity Agreements or any other single form used during the bond underwriting process.
25. The issues and violations described in paragraphs 9 through 25 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Respondent shall pay a civil penalty to the Division in the amount of five hundred thirty-three thousand and no/100 dollars (\$533,000.00) for the cited violations of Colorado insurance law. Said penalty shall be assessed a 10% surcharge up to \$75,000.00, or \$7,500.00, pursuant to § 24-34-108, C.R.S. for a total balance due of \$540,500.00 which will be due to the Division within 30 days of the signing of this Final Agency Order. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program.
26. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Final Agency Order, the Respondent shall file affidavits executed by each of its

directors stating under oath that they have received a copy of the adopted Report and related Final Agency Order.

27. This Final Agency Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Final Agency Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Final Agency Order may result in additional actions, penalties and sanctions, as provided for by law.
28. Copies of the examination report, and this Final Agency Order will be made available to the public no earlier than thirty (30) days after the date of this Final Agency Order, subject to the requirements of § 10-1-205, C.R.S.


WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated June 15, 2010, are hereby adopted and filed and made an official record of this office, and the above Final Agency Order is hereby approved this 15th day of October, 2010.


Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of October, 2010, I caused to be deposited the **FINAL AGENCY ORDER NO. O-11-053 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF PIONEER GENERAL INSURANCE COMPANY**, in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. Bruce H. Lowdermilk, President
Pioneer General Insurance Company
333 West Hampden Avenue, Suite 815
Englewood, CO 80110



Carol O'Bryan
Director of Market Regulation
Division of Insurance